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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,912	05/23/2001	Mark Bernard Hettish	2001 P 09460 US	1627

7590 04/21/2004

Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

EXAMINER

AL AUBAIDI, RASHA S

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,912

Applicant(s)

HETTISH, MARK BERNARD

Examiner

Rasha S AL-Aubaidi

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-16 and 18-30 is/are rejected.
- 7) ☒ Claim(s) 2 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u># 3, 02/11/04 and # 5, 3/18/04</u> | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

2. Claims 1,3-16 and 18-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel, III et al (US PAT # 4,972,453) in view of the admitted prior art.

Regarding claim 1, Daniel teaches a PBX switch (reads on 114 and 105 in Fig. 1), a computing platform (this may read on computer 122, see Fig.1, col.3, lines 19-27) coupled to the PBX switch (114 and 105 in Fig.1); and component based interface objects (this may read on the expert system that invokes testing procedure, see abstract) running on said computing platform and defining properties, methods, and events, said properties, methods and events being mapped to automatically control common paradigms.

Daniel does not specifically teach the use of a control interface for controlling CSTA protocols. However, this feature is old and well known as admitted by applicant specification page 3, lines 1-3.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the old and well-known CSTA protocol in Daniel

Art Unit: 2642

because using an old and available protocol such as the CSTA protocol does not rise to the level of patentability.

Claim 16 is rejected for the same reasons as discussed above with respect to Claim 1.

Regarding claims 3 and 18, obviously the paradigms should be configurable because Daniel's system is not meant to be fixed and permanent.

Regarding claim 4 and 19, mapping more and more events in the PBX does not distinguish the claims from Daniel.

Regarding claims 5 and 20, said component based interface objects is ActiveX (this is admitted prior art, see application specification page 3, lines 3-4).

Regarding claims 6-7 and 21-22, ActiveX includes properties are mapped to session configuration (this is admitted prior art, see application specification page 3, lines 3-4).

Regarding claims 8 and 23, ActiveX methods and events are mapped to startup and teardown a connection to the PBX switch. Daniel teaches Decision block 709 checks a number of special situations where stable calls could be dropped or

Art Unit: 2642

disconnected if the diagnostic portion of PROC 620 is executed, (see col.10, lines 41-52).

Regarding claims 9 and 24, substantially all CSTA and private data fields are supported (CSTA protocol is old and well-known as admitted in Daniel's specification).

Regarding claims 10-11 and 25-26, invoke ID generation and timing is automatic and configurable (this is obvious).

Regarding claims 12 and 27, heartbeat messages and replies are automatically generated. Generating automatic message reply is obvious and well known in the art.

Regarding claims 13 and 28, heartbeat messages and replies are configurable (this should be obvious because Daniel's system is not meant to be fixed and permanent).

Regarding claims 14 and 29, Daniel teaches statuses and errors are logged (this reads on the executing the diagnostic routines checking for fault conditions, see col.3, lines 23-28), for having those features logged automatically this will be obvious.

Regarding claims 15 and 30, Danile teaches that statuses and errors are

Art Unit: 2642

viewable via ActiveX property pages (this reads on block 211 in Fig.2 and col.6, lines 52-58).

Allowable Subject Matter

3. Claims 2 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments filed 02/10/2004 have been fully considered but they are not persuasive.

Regarding applicant's argument that "Daniel's reference is not directed to a control interface or to the CSTA protocol", it is further noted that the claimed CSTA protocol appears only in the preamble of claim 1 and carries no patentable weight. For example, claim 1 recites the "intended use" of the control interface.

In response to applicant's arguments, the recitation CSTA protocol has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not

Art Unit: 2642

depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Examiner noticed that applicant presenting individual argument regarding Daniel's reference without looking at the combination of the rejection as a whole.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rasha S AL-Aubaidi whose telephone number is (703) 605-5145. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F Matar, can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.


Art Unit: 2642

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Examiner

Rasha Al-Aubaidi

04/06/2004


AHMAD MATAR
SUPERVISORY PATENT EXAMINER
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